

## **Case Examines Owner, Management Company Responsibility For Resident Injuries**

A recent court case examined owner and management responsibility to make rental properties safe for residents.

In this case, an elderly resident fell and injured her hip and left side after stepping in a large pothole in the property's unlit parking lot. She dies two months later. Her estate brought suit against the community's owner and management company seeking damages for her medical bills and for loss of consortium.

Four days before the incident, the management company became the "receiver" of the property. (Companies and organizations that become receivers are responsible for the financial affairs of the property). On the day the company took over, it conducted an inspection and found the large pothole. It scheduled repair work for the following week. The incident, however, occurred two days after the inspection and before repairs could be done.

At trial court, the owners argued that they lacked possession of the property due to the appointment of the management company as the receiver. They stated that it was not their responsibility to provide care to the injured resident.

The trial judge agreed with the argument. He stated that the receiver of the property, which in this case was the management company, owed the duty of care to the residents since it had "sufficient time to make the repair to the pothole."

On appeal, the court overturned the trial judge's decision.

The owners again argued that they were not liable for the resident's injuries and had no duty to further assist her since they no longer had control of the property. The Court of Appeals disagreed. It looked at the short period of time that the management company had control of the property prior to the incident.

The court also added that the owners could be in breach of their duty of care of their residents during ownership by not repairing the pothole. Although the receiver took control of the community, the court continued, a jury could find the owners liable for this incident because of the extended period of neglect regarding the necessary repairs.

This case further underscores the potential liability that exists to both management companies and owners for injuries due to a failure to promptly repair dangerous conditions at the community.

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